

ANDOVER BOARD OF HEALTH
MINUTES
SPECIAL MEETING
FRIDAY, NOVEMBER 7, 2014, 8:00 A.M.
FIRST FLOOR CONFERENCE ROOM
36 BARTLET STREET

The Board of Health Meeting was called to order at 8:01 a.m. by Ms. Kellman. Present were Ms. Katherine Kellman, Vice-Chairman, Gopala K. Dwarakanath, M.D., Clerk, and Mr. Thomas G. Carbone, Director of Public Health. Ms. Candace Martin was not present.

- I. **Attorney David Christensen Representing U.S. Bank for 2 Dufton Road – Appeal of Orders** - Attorney David Christensen appeared on behalf of U.S. Bank in action involving the property at 2 Dufton Road. Attorney Christensen requested that the Board re-hear the matter that was decided at the special Board meeting on September 29, 2014, and in addition requested a hearing for appeal of orders issued to U.S. Bank dated October 2, 2014.

Neither Board member made a motion to reopen the September 29, 2014 Hearing, stating that they had no desire to do so, thus addressing that request.

The Board then opened the Hearing for the appeal of the orders of October 2, 2014. Attorney Christensen stated that the electrical cord issue is the only item that overlaps both sets of orders, and he reviewed compliance with the earlier orders. He informed the Board that the Appeals Court brief from occupant Joseph Boyer was due that day, and that the Housing Court was unwilling to move forward with the execution of the eviction until the appeal was complete. He reiterated that the bank does not have the right to touch Mr. Boyer's property, and that even if the bank did so to gain compliance with the orders, there was no guarantee that Mr. Boyer would not create the same conditions. Mr. Boyer has informed the bank that he will correct the leaking wastewater pipe and relocate the sump pump discharge.

Mr. Ted Teichert, 5 Dufton Road, asked to speak on the matter. He stated that he can see the electrical wires in the yard and worries about the danger to the neighbors and occupants due to the possibility of fire and the danger of untreated wastewater. He asked if the Board could condemn the home based on the conditions there; Mr. Carbone stated that the Board could condemn the home, but only after a Hearing, and that he did not think that was the appropriate way to address this.

Attorney Christensen suggested that the Board could seek the appointment of a Receiver to conduct the required repairs; Mr. Carbone stated that Receivership is an option that is usually considered when an owner is not readily available to make corrections, or when

there are limited finances to make the corrections. Receivership takes time to set up, and is not being considered at this time because the Bank is recognized by the town as the owner.

Mr. Carbone outlined the options he saw as available to the Board. In September the Board determined that as owner of the property, the bank held responsibility to meet compliance with the orders; if the Board's mindset has changed, then it should consider other options, but if this is still true, then the issue remains the same. He suggested the Board could uphold the orders, issue an extension to the compliance timeline, and state that filing for permission to take corrective actions with a court would meet compliance with the orders.

Motion by Dr. Dwarakanath: Motion to require that the bank gain compliance within 7 working days, seconded by Ms. Kellman for discussion.

Discussion: Ms. Kellman asked that the motion be amended to include the option of filing with a court to gain compliance, and there was discussion about requiring compliance by a date certain instead of 7 working days. Dr. Dwarakanath withdrew his motion.

Motion by Ms. Kellman, seconded by Dr. Dwarakanath, to uphold the supplemental violation notice and to require compliance by close of business November 20, 2014. Compliance can be met by filing with a court to obtain permission to complete the required work. Unanimous approval.

Attorney Christensen noted that the bank objects to the decision by the Board.

II. Adjournment

Motion by Ms. Kellman, seconded by Dr. Dwarakanath, to adjourn at 8:49 a.m. Unanimous approval.